



**ORDER NUMBER
G-80-16**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Inc.

Application for Approval of Treatment for Major Project Capital Expenditures
under the Multi-Year Performance Based Ratemaking Plan for 2014-2019

BEFORE:

N. E. MacMurchy, Commissioner

on June 3, 2016

ORDER

WHEREAS:

- A. On March 15, 2016, FortisBC Inc. (FBC) filed an application for Treatment of Capital Expenditures for major projects that had been proposed as Certificate of Public Convenience and Necessity (CPCN) projects by FBC under its Performance Based Ratemaking Plan (PBR Plan) for 2014 through 2019 (Application). The major projects were defined as Upper Bonnington Old Units Refurbishment, Ruckles Substation Upgrade, Grand Forks to Warfield Fibre and Grand Forks Terminal Station Transformer Addition (the Projects);
- B. On September 15, 2014, the British Columbia Utilities Commission (Commission) issued Order G-139-14 which set out the PBR Plan for 2014 through 2019 (FBC PBR Decision);
- C. On pages 174 and 175 of the FBC PBR Decision, the Commission invited submissions from all parties on issues related to how certain capital projects would be excluded from the capital spending formulas in the PBR Plans (Capital Exclusion Criteria);
- D. On July 22, 2015, the Commission issued Order G-120-15 (Capital Threshold Decision) which set FBC's PBR materiality threshold at \$20 million, to be used to determine whether capital costs are eligible for exclusion from FBC's formula-driven capital spending, and which maintained FBC's CPCN dollar threshold at \$20 million;
- E. On April 11, 2016, the Commission issued Letter L-7-16 seeking comments from interveners in the FBC PBR and Capital Threshold proceeding on the Application;
- F. The Commission received comments from the British Columbia Sustainable Energy Association and Sierra Club of BC, the Commercial Energy Consumers, the British Columbia Old Age Pensioners' Organization *et al.* and Mr. N. Gabana. FBC submitted its reply submission on April 28, 2016.

- H. The Commission considered the Application and comments received and determines that clarification of the treatment of the Projects within the PBR Plan is warranted.

NOW THEREFORE pursuant to sections 45, 59 and 60 of the *Utilities Commission Act* and for the reasons set out as Appendix A to this order, the British Columbia Utilities Commission orders as follows with respect to the Projects:

1. FortisBC Inc. (FBC) is directed to file an application for a Certificate of Public Convenience and Necessity (CPCN) for the Grand Forks to Warfield Fibre and Grand Forks Terminal Station Transformer Addition projects should those projects proceed. For regulatory efficiency, FBC may file a single CPCN application for these related projects.
2. FBC must seek approval of the Ruckles Substation Upgrade and Upper Bonnington Old Units Refurbishment projects as part of the Performance Based Ratemaking (PBR) Annual Review. For the Upper Bonnington Old Units Refurbishment projects, FBC is directed to include information in its business case that specifically addresses the timing of the four units to be refurbished in terms of need and cost effectiveness. Should the location of the Ruckles Substation Upgrade change from its existing location, a CPCN application will be required.
3. To the extent that the Projects are granted a CPCN or pre-approval in the PBR Annual Review, FBC is approved to flow through the actual capital expenditures outside of the formula-driven capital under the PBR Plan. Project final costs will be reviewed as part of the PBR Annual Review before adding the capital expenditures to rate base on January 1 of the year following the in-service date of the Projects.

DATED at the City of Vancouver, in the Province of British Columbia, this 3rd day of June 2016.

BY ORDER

Original signed by:

N. E. MacMurchy
Commissioner

Attachment

FortisBC Inc.
Application for Approval of Treatment for Major Project Capital Expenditures
under the Multi-Year Performance Based Ratemaking Plan for 2014-2019

REASONS FOR DECISION

1.0 BACKGROUND

On March 15, 2016, FortisBC Inc. (FBC) filed an application for treatment for certain major project capital expenditures under the multi-year Performance Based Ratemaking (PBR) plan for 2014-2019 (Application). FBC is seeking approval to file four capital projects for approval in future PBR Annual Reviews (if they proceed during the remaining PBR term), and for treatment as flow-through capital expenditures outside of the PBR Base Capital formula amount. Costs would be added to rate base January 1 of the year following their in-service date. FBC is also requesting relief from having to file Certificate of Public Convenience and Necessity (CPCN) applications for two projects for which it was previously directed to file CPCNs, namely the Grand Forks to Warfield Fibre and Grand Forks Terminal Station Transformer projects.

FBC states there is a need to determine the regulatory treatment of four major projects for which FBC plans to incur capital expenditures during the remaining term of the PBR Plan. These four projects are:

- 1) Upper Bonnington Old Units Refurbishment;
- 2) Ruckles Substation Upgrade;
- 3) Grand forks to Warfield Fibre; and
- 4) Grand Forks Terminal Station Transformer Addition (the Projects).

The regulatory treatment of the Projects is unclear since the Projects, which were identified as CPCN projects in FBC's PBR application, fall below the subsequently revised capital exclusion threshold for exclusion from the PBR formula determined in the Capital Exclusion Criteria Decision (Order G-120-15).¹

1.1 Review process undertaken

The British Columbia Utilities Commission (Commission) issued letter L-7-16 seeking comments from interveners in the PBR and Capital Exclusion Criteria proceedings on the Application, specifically to address the following questions:

1. Were any/all of the four Projects excluded (to be treated as flow-through capital) in establishing and approving the formula-driven base capital for the PBR Plan?
2. Subject to approval of any/all of the Projects to proceed, and with specific reference to Orders G-138-14 and G-120-15, should any/all of the four Projects be included in formula-driven capital under PBR, or afforded flow-through treatment?

¹ Previous decisions relative to this proceeding include:

- Order G-139-14 FBC PBR Decision
- Order G-120-15 FBC Capital Exclusion Criteria Decision
- Order C-2-16 Kootenay Operations Centre Decision
- Order G-110-12 FBC 2012-13 Revenue Requirements Decision

3. Should the Commission require CPCN applications for any/all of the Projects or would reviewing for approval as part of a future PBR Annual Reviews as proposed be agreeable?

The Commission received comments from the British Columbia Sustainable Energy Association and Sierra Club of BC (BCSEA), the Commercial Energy Consumers Association of British Columbia (CEC), the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO) and Mr. N. Gabana. FBC submitted its reply submission on April 28, 2016.

1.2 Flow-through treatment of the Project

Intervener Comments

Both BCSEA and BCOAPO agree that the four projects were clearly identified as proposed CPCN flow-through projects in the original PBR and that the Commission recognized that in approving the base capital. Both also support that the four projects rightly should be treated as flow-through capital since they were not included in the PBR base capital for reasons that were applicable at the time. BCOAPO further states that by Order G-120-15, the Commission altered the criteria for exclusion of capital by eliminating the non-financial criteria but did not comment on the impact of that subsequent decision on the proposed CPCN projects. BCOAPO also references the Kootenay Operations Centre CPCN (KOC) Decision as supporting flow-through treatment for these other proposed CPCN projects.

CEC disagrees with flow-through treatment. It states that the Projects were reasonably known to the Commission in the two proceedings and that none of the Projects were specifically established by the Commission to be treated as flow-through and therefore, the Projects are appropriately considered to be included in the capital spending formula. CEC agrees that these projects were identified as CPCN projects in the PBR proceeding, however it states:

The CEC does not agree that FBC's identification of FBC's proposed CPCN projects means that they were recognized by the Commission as being properly to be treated as flow through. The Commission did decide to track certain projects outside formula and deducted \$54,882 million from rate base to account for these projects. [PBR Decision, p. 210] These projects do not include any of the above listed projects. The CEC submits that other capital projects on the record were included in rate base unless explicitly excluded or excluded under other criteria established by the Commission.²

CEC states the following, which it attributes to the Commission's Capital Exclusion Criteria Decision (G-120-15):

In the case of FBC, an adjustment to the base capital for 2016 would be necessary only if there are material capital projects accounted for in the base capital that would now also be eligible for exclusion under FortisBC's proposal to lower the CPCN threshold for FBC from \$20 million to \$5 million.³

CEC submits that the above statement is evidence that the Commission considered that the capital projects were included in the base and formulaic spending. They would need to lower the base capital in the event that the projects were eligible for exclusion under FBC's proposed lower threshold.⁴

² CEC Final Submission, p. 2

³ *Ibid*, p. 3

⁴ *Ibid*, p. 4

FBC in its reply submission points out that CEC incorrectly referenced the quote above to the Capital Exclusion Criteria Decision. It was in fact a quote from FBC's reply evidence in that proceeding and referred to its proposal to reduce the CPCN threshold. FBC further notes that in this reply submission FBC subsequently stated:

Under FortisBC's proposal, no adjustment to the base is necessary for FBC since the proposed reduction of the CPCN threshold to \$5 million from \$20 million does not result in fewer (or more) projects subject to CPCN applications over the course of the PBR term as compared to the original proposal. All of FBC's capital projects cited by CEC (highlighted in the table above) would have qualified for exclusion as a CPCN project under one of FBC's existing non-financial criteria and were not included in the base capital.

CEC argues that the Commission rejected the position that a project requiring a CPCN met the criterion for capital exclusion under PBR and further, that only a project exceeding \$20 million met the materiality threshold for exclusion from formula-driven capital spending for the purpose and duration of the current PBR plan for FBC. CEC cited the following:

NOW THEREFORE for the attached reasons for decision, pursuant to section 60 of the *Utilities Commission Act*, the Commission orders, for the purpose and duration of the current Performance Based Ratemaking (PBR) Plans for FortisBC Inc. (FBC) and FortisBC Energy Inc. (FEI), that:

1. FBC's and FEI's PBR materiality thresholds are set at \$20 million and \$15 million, respectively. These materiality thresholds shall be used to determine whether capital costs are eligible for exclusion from the FBC's and FEI's formula-driven capital spending.

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CEC further notes that if FBC requires an adjustment to the PBR base (and/or formula) to incorporate the above projects, it should have filed for a Reconsideration.

1.3 Project approval process

Intervener Comments

BCOAPO supports incorporating the project reviews in the Annual Review for efficiency with two caveats:

- The Commission should indicate that it expects the business case provided to identify any public/stakeholder consultation FBC has undertaken, note any issues/concerns identified and how FBC proposes to address them.
- If there is significant stakeholder interest in a proposed project it could be severed as a phase 2 of the Annual Review to not jeopardize the schedule for the Annual Review and allow adequate opportunity to review the project(s).

BCSEA supports having the project reviews as part of the Annual Review including each of the four Upper Bonnington turbine refurbishments.

CEC recommends the Commission require FBC to file CPCNs for the Grand Forks Transformer and Grand Forks to Warfield Fibre projects since it was directed to do so in Order G-110-12, and an adequate justification to change

⁵ Order G-120-15 FBC Capital Exclusion Criteria Decision, Directive 1.

that decision has not been provided. CEC does not oppose the Upper Bonnington and Ruckles Substation projects being reviewed in an Annual Review.

1.4 FBC reply submission

FBC submits that it is “incontrovertible that the Projects were excluded when the formula-driven base capital for the PBR Plan was established” stating that “the formula-driven base capital was set based on FBC’s proposal that the formula-driven base capital would exclude projects that met the CPCN criteria that existed at the time of FBC’s PBR Application.”

FBC also refers to the KOC Decision, which it argues “makes clear that those projects identified as CPCN projects in the PBR Decision should not be included in Base Capital expenditures regardless of whether they meet the \$20 million threshold.”⁶ FBC argues that not granting flow-through treatment would result in the deadband being exceeded with would require the Commission to revisit the question that is before it in this Application, namely to grant flow-through treatment or adjust the formula-driven base capital. FBC restates its justification why adjusting the base capital is an inferior option including that the Commission would not have an opportunity to review the projects before they are undertaken.⁷

In its reply, FBC notes all comments support the Annual Review and addresses BCOAPO’s caveats and CEC’s comments.

- FBC can commit to filing consultation materials for the Annual Review.
- A second phase of an Annual Review is an option for the Commission if it concludes further process is required to review the Projects.
- Commission concerns with Grand Forks to Warfield Fibre and Grand Forks Terminal Addition have been, or will be, addressed as part of Annual Review filing materials.

FBC concludes by stating that:

CEC does not address the fundamental issue facing the Commission in this proceeding, which is what is the most appropriate and reasonable regulatory treatment of the Projects. CEC argues that the Commission should not attempt to address this issue by granting flow-through treatment, but instead force FBC to exceed the dead band even though exceedance of the dead band due to expenditures on the Projects would not be indicative of the expenditures FBC could be expected to manage under the formula-driven base capital.⁸

Commission determination

The Panel agrees with FBC, BCOAPO and BCSEA that the four projects for which FBC is seeking regulatory treatment in this Application were identified in the PBR application as CPCN projects at that time. Since these projects were identified as CPCN projects at the time, these capital expenditures were not included in the proposed and approved formula-driven base capital. **The Commission therefore finds it just and reasonable and therefore approves pursuant to section 59 and 60 of the *Utilities Commission Act* (UCA) that the expenditures for the Projects be excluded from the formula-driven base capital amount and should be flowed-**

⁶ FBCReplySubmission, p. 7

⁷ FBCReplySubmission, p. 8.

⁸ FBCReplySubmission, p. 11.

through as applied for subject to review and approval of the Projects. The Commission also recognizes that this treatment is consistent with the Commission's decision for the capital treatment for the Kootenay Operations Centre CPCN. The Panel in the KOC Decision noted, among other reasons, that "it would not be reasonable to consider the KOC project as included in the PBR cost base, because the KOC project was specifically anticipated in the original PBR hearing (with an estimate of approximately \$16 million) to be excluded from the PBR formula."⁹

FBC is requesting that the four projects be reviewed for approval in future PBR Annual Reviews and not as CPCN filings, including relief from filing CPCNs for two of the projects for which the Commission previously directed FBC to file CPCNs. FBC proposes to submit a business case for each project in the PBR Annual Review, which would be similar to a CPCN application, but with an AACE Class 4 degree of cost estimate accuracy instead of Class 3. It proposes a process as part of the PBR Annual Review involving one round of information requests and a workshop for the review of the Projects as a condition of the acceptance as flow-through capital. It is presumed that FBC makes this request on the basis of it being more efficient to review the Projects in the PBR Annual Review by providing "business case" review materials, which would cover less and be of a lower degree of estimate accuracy than for a CPCN review and that a separate CPCN proceeding could be avoided.

FBC bases its request on the change to the CPCN criteria set out in the Capital Exclusion Criteria Decision which continued the \$20 million CPCN threshold but removed the qualitative criteria used by FBC. The Commission notes that in the Capital Exclusion Criteria Decision, although the Commission removed the qualitative criteria that FBC had previously used to determine when a CPCN would be required, the Commission confirmed that it may require a CPCN review for projects below the \$20 million CPCN threshold if it finds that pursuant to section 45 of the UCA it is in the public interest to do so.¹⁰ **The Commission finds that CPCN applications are required for the Grand Forks Transformer Addition and Grand Forks to Warfield Fibre projects** for the following reasons.

- The Commission previously directed FBC to file a CPCN for the two Grand Forks projects (identified as two portions of one project, Order G-110-12) explicitly rejecting the expenditures at that time because the need was not apparent and alternatives to preserve benefits to ratepayers needed addressing.
- There is no evidence that the public interest concerns that previously resulted in the Commission ordering CPCNs for the Grand Forks projects have changed.

The request for review in the PBR Annual Review is approved for the Upper Bonnington Old Units Refurbishment project(s). FBC is directed to include information in its business case that specifically addresses the timing of the four units to be refurbished in terms of need and cost effectiveness.

The request for review in the PBR Annual Review is approved for the Ruckles Substation Upgrade project provided a new location from the existing substation is not required. Should a new location be required FBC is directed to file a CPCN for the project.

⁹ Order C-2-16, Reasons for Decision, p. 26.

¹⁰ Order G-120-15, Directive 2.